

### REMARKS

Upon entry of this Amendment, claims 9-43 are pending; and claims 9-39 are elected for further prosecution.

Applicant wishes to thank the Examiner for indicating Claims 22, 23, 38 and 39 as allowable.

Claims 9-43 are subject to restriction under 35 U.S.C. § 121, and, as requested by the Examiner, Applicant affirms election of claims 9-39 for further prosecution. Claims 40-43 are not elected and may be withdrawn from further consideration in this application.

Claims 9-13, 17-21, 24-30 and 34-37 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,910,987 to *Ginter*. As discussed below, the rejection is respectfully traversed because the Examiner has not stated a *prima facie* case for rejection.

Reconsideration and allowance of the pending claims is requested in light of the following remarks.

#### Restriction Under §121

In the Office action, restriction was requested to one of the following two groups, as characterized by the Examiner: claims 9-39, drawn to a method and a system for managing and distributing a digital work, classified in class 705, subclass 52 (Group I); and claims 40-43, drawn to a method for monitoring security violations during transactions, classified in class 713, subclass 201, (Group II). *See* Office action, Par. 3. To expedite prosecution, Applicant elects the Group I claims 9-39 for further prosecution in this application. The Examiner may withdraw from further prosecution the Group II claims 40-43, though Applicant reserves the right to resubmit for consideration such non-elected claims, or variations thereof.

#### Rejection Under §102(e)

Neither *Ginter*, nor any art of record teaches expressly or by implication all of the limitations of each of the independent claims. At least the following limitations recited variously in each of independent claims 9, 12, 17, 21, 26, 29, 34, and 37 are not disclosed or suggested by *Ginter*:

- (1) "receiving at the reconciling node ... a first report ... being provided in response to a transaction that provided the digital work"

- (2) “receiving at the reconciling node ... a second report that originated from a content managing node in response to supplying by the content managing node information to validate the request”
- (3) “comparing at the reconciling node the value and the transaction identifier”;  
and
- (4) “means for comparing the value and the transaction identifier”.

The Examiner has taken the position that “a first report ... being provided in response to a transaction that provided the digital work” is taught by *Ginter* as “receiving at the VDE Rights Distributor node a first report, the first report tracks the usages of the digital works provided from VDE Content Creator node to VDE Content User node (col. 56 lines 8-16 and FIG. 2)”. However, the passage quoted for support by the Examiner extends in context from col. 55 line 47 through col. 56 line 30. That passage concludes with the statement: “Content may be supplied to the user once these processes have been successfully performed.” The report disclosed by *Ginter* occurs prior to delivery of the work as opposed to “in response to a transaction that provided the digital work” as claimed. The passage discusses event processing, but “delivery” is not an event. Therefore, the metering process as disclosed by *Ginter* is not capable of sending the first report as claimed. See also *Ginter* FIG. 3.

The Examiner has taken the position that “receiving via the network a second report that originated from a content managing node” is taught by *Ginter* as a report that originated from a Financial Clearinghouse and VDE Administrator node 116 of FIG. 2. On examination of FIG 2 and the supporting text, the only reports 114 received by Financial Clearinghouse and VDE Administrator node 116 originate from VDE Content User 112. VDE Content User 112 is not a “content managing node” as claimed at least because VDE Content User 112 makes requests for content and does not participate in validating such requests.

Financial Clearinghouse and VDE Administrator node 116 is not a “reconciling node” at least because it does not receive first and second reports to be reconciled by a comparison of portions of each of the first and second reports.

The Examiner has taken the position that “[c]omparing at the reconciling node the value and the transaction identifier is taught by *Ginter*.” See Office action, Par. 10(c). As support for this assertion, the Examiner states that the “VDE Rights Distributor provides the payments and

the payment related information to the corresponding content creator (column 53 lines 63-64 and Fig. 2).” *Id.*

*Ginter* does not disclose or suggest “comparison” expressly. Merely “providing the payments and payment related information” is not “comparison”.

*Ginter* does not disclose or suggest “comparison” by implication at least because no function in *Ginter* makes “comparing at the reconciling node” as claimed a necessary operation.

No prior art of record teaches expressly or by implication all of the limitations of each of the independent claims. A lack of novelty cannot be established without showing every element of the claim. As discussed above several elements are not in *Ginter* and the elements asserted by the Examiner to be taught in *Ginter* are not actually taught by *Ginter*. Withdrawal of the rejections is respectfully requested because no *prima facie* case for a lack of novelty has been established by the Examiner as to any pending independent claim.

#### Conclusion

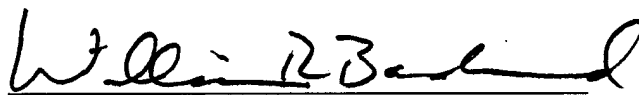
Reconsideration is respectfully requested. Applicant believes the case is in condition for allowance and respectfully requests withdrawal of the rejections and allowance of the pending claims.

The Examiner is invited to telephone the undersigned at the telephone number listed below if it would in any way advance prosecution of this case.

Respectfully submitted,

Date:

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